



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XC645

Taking of Threatened or Endangered Marine Mammals Incidental to Commercial Fishing Operations

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of extension of public comment period.

SUMMARY: NMFS is announcing an extension to the public comment period for the amended permit to authorize the incidental, but not intentional, take of two stocks of marine mammals listed as threatened or endangered under the Endangered Species Act (ESA), under the Marine Mammal Protection Act (MMPA), by the California (CA) thresher shark/swordfish drift gillnet fishery ( $\geq 14$  in mesh) and the Washington (WA)/Oregon (OR)/CA sablefish pot fishery. On August 25, 2014, NMFS solicited comments from the public on the draft negligible impact determination and on the proposal to issue a permit to vessels that operate in these fisheries for the taking of affected endangered stocks of marine mammals.

NMFS is extending the comment period for 30 days.

DATES: Information and comments must be received by close of business on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The draft amended Negligible Impact Determination and list of references contained in this notice are available in electronic form via the Internet at: [http://www.westcoast.fisheries.noaa.gov/protected\\_species/marine\\_mammals/marine\\_mammals.html](http://www.westcoast.fisheries.noaa.gov/protected_species/marine_mammals/marine_mammals.html).

The petition and a list of references contained in this notice are available in electronic form via the Internet at <http://www.nmfs.noaa.gov/pr/>.

You may submit comments, identified by NOAA–NMFS–2013–0073, by any of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0073](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0073), click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- Mail: Send comments or requests to: Chris Yates, Assistant Regional Administrator, Protected Resources Division, West Coast Region, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802. Comments may also be faxed to (562) 980–4027.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <http://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter N/ A in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Monica DeAngelis, NMFS West Coast Region, (562) 980-3232, or Shannon Bettridge, NMFS Office of Protected Resources, (301) 427–8402.

SUPPLEMENTARY INFORMATION:

## Background

Section 101(a)(5)(E) of the MMPA, 16 U.S.C. 1361 et seq., states that NMFS, as delegated by the Secretary of Commerce, shall for a period of up to three years allow the incidental taking of marine mammal species listed under the ESA, 16 U.S.C. 1531 et seq., by persons using vessels of the United States and those vessels which have valid fishing permits issued by the Secretary in accordance with section 204(b) of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1824(b), while engaging in commercial fishing operations, if NMFS makes certain determinations. NMFS must determine, after notice and opportunity for public comment, that: (1) incidental mortality and serious injury will have a negligible impact on the affected species or stock; (2) a recovery plan has been developed or is being developed for such species or stock under the ESA; and (3) where required under section 118 of the MMPA, a monitoring program has been established, vessels engaged in such fisheries are registered in accordance with section 118 of the MMPA, and a take reduction plan has been developed or is being developed for such species or stock.

NMFS proposes to issue an amended permit under MMPA section 101(a)(5)(E) to vessels registered in the CA thresher shark/swordfish drift gillnet fishery ( $\geq 14$  in mesh) to incidentally take individuals from two stocks of threatened or endangered marine mammals: the CA/OR/WA stock of humpback whales (Megaptera novaeangliae) and the CA/OR/WA stock of sperm whales (Physeter macrocephalus); and to vessels registered in WA/OR/CA sablefish pot fishery to incidentally take individuals from the CA/OR/WA stock of humpback whales.

The data for considering these authorizations were reviewed coincident with the 2014 MMPA List of Fisheries (LOF; 79 FR 14418, March 14, 2014), final 2013 U.S. Pacific Marine Mammal Stock Assessment (SAR; Carretta et al. 2014), Carretta and Moore (2014), Moore and

Barlow (in press), the Fishery Management Plan (FMP) for U.S. West Coast Fisheries for Highly Migratory Species (HMS), recovery plans for these species (available on the Internet at: <http://www.nmfs.noaa.gov/pr/recovery/plans.htm#mammals>), the best scientific information and available data, and other relevant sources.

Section 101(a)(5)(E)(i) of the MMPA requires NMFS to provide notice and opportunity for public comment on the proposed permit.

NMFS wants to provide adequate opportunity for review of all documents considered in making a negligible impact determination. Although NMFS believed all documents would be available to the public at the time we solicited comments on the draft negligible impact determination and on the proposal to issue the permit (79 FR 50626, August 25, 2014), the Moore and Barlow (in press) paper has not yet been published and made available for public review. Publication of the paper is imminent and NMFS has decided to extend the comment period to allow for publication of the paper and subsequent review of the paper for comments relevant to this proposed MMPA permit issuance. In this notice NMFS is extending the public comment period until [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], to allow adequate time for the public to review the scientific information relevant to the amended permit under MMPA section 101(a)(5)(E) to vessels registered in the CA thresher shark/swordfish drift gillnet fishery (>14 in mesh) and vessels registered in WA/OR/CA sablefish pot fishery.

#### Information Solicited

To ensure that the amended permit under MMPA section 101(a)(5)(E) is based on the best scientific information available, we are soliciting public comments on the proposed permit and the preliminary determinations supporting the permit. Specifically, we seek comments on:

- The use of the revised abundance estimates in Moore and Barlow (in press)
- The use of a 13-year time period for estimating expected incidental mortality of sperm whales in the gillnet fishery

Dated: September 19, 2014.

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National Marine Fisheries Service.

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